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Union Budget Highlights 2022-23

Foreword

With India celebrating Azadi ka Amrit Mahotsav and entering Amrit Kaal, the 25-year-long leadup to India@100, the Government intends to complement the macro-economic level growth focus with a micro-economic level all-inclusive welfare focus. Moreover, digital economy & fintech, technology enabled development, energy transition, and climate action have been prioritized. Further, reliance would be placed on virtuous cycle starting from private investment with public capital investment helping to crowd-in private investment. This was stated by Union Minister for Finance and Corporate Affairs Smt. Nirmala Sitharaman while presenting the Union Budget in Parliament on 1st February 2022.

The enhanced capex spending, the impetus to the domestic industries, regulation of crypto asset, massive infrastructural layout and inclusive development are notable proposals of the Budget.

We are pleased to share the consolidated tax and policy highlights as well as key takeaways and impacts of the proposals announced.

Shuva Mandal
Managing Partner



DIRECT TAX PROPOSALS

Extension of Incentives

In order to attract investments, create jobs and trigger overall economic growth, provisions were introduced to provide concessional rate of tax @15% for new domestic manufacturing companies subject to fulfillment of certain conditions. However, COVID-19 pandemic has resulted in delay in setting up/ registration of new domestic companies.

In order to incentivize setting up of new manufacturing units, the last date has been proposed to be extended by one year to **31st March 2024** (earlier 31st March 2023).

In order to promote entrepreneurship, Section 80-IAC was introduced which provides **deduction of an amount equal to 100% of the profits and gains from an eligible business by an eligible start-up for 3 consecutive assessment** years, subject to fulfillment of certain conditions. However, COVID-19 pandemic has delayed setting up of such eligible start-ups.

In order to promote the setting up of eligible start-ups, the last date of incorporation has been proposed to be extended by one year to 31st March 2023 (earlier 31st March 2022).

Incentives to International Financial Services Centre (IFSC)

In order to incentivize operations from IFSC, it is proposed to provide following additional incentives by way of exemption from tax:

- Income arising to non-resident as a result of transfer of offshore derivative instruments or over-the-counter derivatives entered with an offshore banking unit of IFSC.
- Income arising to non-resident by way royalty or interest on account of lease of ship paid by a unit of an IFSC.
- Income arising to non-resident from portfolio of securities or financial products or funds, managed or administered by any

portfolio manager, on behalf of such non-resident, in an account maintained with an offshore banking unit in IFSC, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

- Investment made by Category I and II AIF regulated under the IFSC Act eligible for "Angel tax" exemption
- Income arising from transfer of ship/ aircraft which was leased by IFSC unit to a person, prior to such transfer, e eligible for tax holiday

The above amendments will apply from FY 2022-23 onwards.

Rationalization of Tax Rates

Currently, Alternative Minimum Tax (AMT) payable by co-operative societies is at the rate of 18.5, whereas for companies, it is 15%.

In order to provide parity between co-operative societies and companies, it is proposed to reduce the AMT rate for co-operative societies to 15%.

Further, surcharge on co-operative societies for total income between INR 10 million and INR 100 million, is proposed to be reduced from 12% to 7%.

Surcharge on Association of Persons (AOPs) consisting of only companies as its members, is proposed to be capped at 15%.

Surcharge on long term capital gains on transfer of any asset is proposed to be capped at 15% (currently at 25%/ 37%).

The above amendments will apply from FY 2022-23 onwards.

Taxation of Virtual Digital Assets

Currently, Alternative Minimum Tax (AMT) payable by co-operative societies is at the rate of 18.5, whereas for companies, it is 15%.

New class of asset – 'Virtual Digital Asset' (VDA) has been introduced

- VDA, inter-alia, is defined to mean, any information or code or number or token generated through cryptographic means or otherwise providing a digital representation of value. Non fungible token or any other token of similar nature is also included.
- Central Government may notify any other VDA by means of notification.
- Income on transfer of VDA taxable at the rate of 30% (plus SC).
- Payment to resident towards purchase consideration (exceeding prescribed threshold) for transfer of VDA even when the payment for transfer of VDA is not in cash.

- No deduction allowed in respect of any expenditure other than cost of acquisition.
- No set-off of loss arising from transfer of VDA against any income (also no set off of other head loss against VDA gain); also such VDA loss not allowed to be carried forward to subsequent assessment years.
- Receipt of VDA as gift taxable in the hands of the donee.
- TDS at the rate of 1% applicable on payment to resident towards purchase consideration (exceeding prescribed threshold) for transfer of VDA even when the payment for transfer of VDA is not in cash.

The above provisions will apply from FY 2022-23 onwards.

Bonus Stripping and Dividend Stripping

In order to prevent tax evasion through dividend stripping and bonus stripping, it has been proposed to extend the applicability of Section 94 to the following asset classes:

- Securities
- Units of Trusts such as InvIT, REIT and AIF

The above amendment will apply from FY 2022-23-24 onwards.

COVID-19 Related Relaxations

In order to provide relief to Covid-19 affected individuals and families, it has been proposed to provide the following exemptions:

- Reimbursement received for medical treatment for COVID-19 related illness for self/ family from employer or any person.

- Sum received by family member on death due to Covid-19 related illness from employer (no cap) or any other person (capped at INR 10 Lakhs).

The above provisions will apply retrospectively from FY 2019-2020 onwards.



Corporate Taxation

Non-Deductibility of 'Health & Education Cess' and 'Surcharge'

Hon'ble Bombay High Court in the case of **Sesa Goa Limited**, (2020) 117 taxman.com, and Hon'ble Rajasthan High Court in the case of **Chambal Fertilizers & Chemicals Ltd**, ITA No. 52/2018, have held that 'education-cess' can be claimed as an allowable deduction while computing taxable business income. These decisions have been relied upon by some lower authorities, while allowing cess as a tax deduction. Recently, Kolkata Tribunal had in the case of **Kanoria Chemicals**, held that cess is not to be allowed as deduction. The Tribunal had relied on the decision of the Supreme Court in **K. Srinivasan**, (1972) 83 ITR 346, which was incidentally, not brought to the knowledge of the Bombay and Rajasthan High Courts, while passing the aforesaid decisions.

In order to make the intention of the legislation clear and free from misinterpretation, it is proposed to insert Explanation 3 to Section 40(a)(ii) of the IT Act to clarify that the expression 'tax' includes and shall be deemed to have always included, any 'surcharge' or 'cess' (by whatever name called) on such tax. Accordingly, no deduction would be allowed towards 'cess' and 'surcharge' while computing the taxable business income.

The above amendment shall apply retrospectively from FY 2004-05 onwards.

Disallowance of Expenditure Incurred in Relation to Exempt Income

Several courts have upheld a view that no disallowance under section 14A of the IT Act can be made if there is no exempt income earned by the taxpayer during the relevant assessment year.

In order to make the intention of the legislation

clear and free from misinterpretation, it is proposed that notwithstanding anything contained in the IT Act, disallowance under section 14A of the IT Act can be made even if the taxpayer has not received any exempt income during the relevant assessment year.

The above amendment shall apply from FY 2021-22 onwards.

Allowability of Certain Benefits or Perquisite Under Section 37 of the IT Act

Certain taxpayers are claiming deduction of expenditure incurred w.r.t provision of certain benefits or perquisite (for instance, freebies, gifts, travel facility to medical practitioners etc.) to people, which are in violation of a law or rule or regulation or guidelines (for instance, Indian Medical Council Regulations, 2002), governing the conduct of such person. There are contradictory judgements on the tax treatment and allowability of such expenditure, causing litigation.

In order to make the intention of the legislation clear and free from misinterpretation, it is proposed that no deduction shall be allowed with respect to any benefit or perquisite given to any person, irrespective of whether such a person is carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person, is in violation of any law or rule or regulation or guidelines governing the conduct of such person.

The above amendment shall take effect from FY 2022-23 onwards.

Deductibility of Conversion of Interest into Debenture or any Other Instrument

With respect to interest payable to any public



financial institution, non-banking financial company, scheduled banks or co-operative banks, etc., deduction of interest is allowed on an actual payment basis under section 43B of the IT Act. However, the taxpayers are claiming deduction of interest on conversion of existing loan into a debenture, by treating the same as constructive discharge of interest liability, amounting to actual payment. This view has also been upheld by several courts.

It is proposed that the conversion of interest payable into debenture or any other instrument, by which the liability is deferred to a future date, shall not be deemed to have been actually paid and accordingly no deduction of the same would be allowed while computing the taxable income.

The above amendment shall apply from FY 2022-23 onwards.

TDS/TCS

Computation of Interest for Failure to Deduct/Collect Tax at Source

Currently, computation of interest in case of default under TDS/TCS provisions is a subject matter of frequent litigation.

In order to make the intention of the legislation clear and free from misinterpretation, it is proposed that where any order is made by the tax officer for any default under TDS/TCS provisions, then interest shall be payable by the taxpayer in accordance with the order made by the assessing officer. The way this amendment is worded, there is some concern that the assessing officer may impose higher interest on defaults made by the assessee.

The above amendment shall take effect from FY 2022-23.

TDS on Sale of Immovable Property (Other Than Agricultural Land)

Currently, TDS under section 194-IA of the IT Act is deductible on the amount of actual consideration for transfer of immovable property (other than agricultural land), where such consideration exceeds INR 50 lacs. However, this provision does not consider the stamp duty value of the immovable property as provided under section 43CA and section 50C of the IT Act.

In order to remove inconsistency, it is proposed that TDS under section 194-IA of the Act shall be deducted at the rate of 1% on sum paid or credited to the resident or the stamp duty value of such property, whichever is higher (exceeding INR 50 lakhs).

The above amendment shall take effect from FY 2022-23 onwards.

TDS on Benefit or Perquisite of a Business or Profession

Various taxpayers, in their return of income, omit reporting the value of any benefit or perquisite received under section 28(iv) of the IT Act.

In order to widen and deepen the tax base, it is proposed to insert a new Section 194R to the IT Act to provide that any person responsible for providing to a resident, any benefit or perquisite exceeding INR 20,000 during a financial year, whether convertible into money or not, arising from carrying out of a business or exercising of a profession by such resident, shall, before providing such benefit or perquisite, deduct tax at source at the rate of 10% of the value or aggregate of value of such benefit or perquisite.

The above amendment shall take effect from 1st July 2022.

Rationalisation of TDS/TCS Provisions for Non-Filers of Return of Income

Finance Act, 2021 had introduced a higher rate of TDS/TCS for payment made to persons who had not filed their return of income during the preceding 2 financial years.

It is proposed to reduce the above-mentioned two years requirement to one year and accordingly the higher rate of TDS/TCS shall apply only in cases where return of income has not been filed in the immediately preceding financial year.

The above amendment shall take effect from 1st April 2022 onwards.

Transfer Pricing and International Tax

Taxation of Dividend Income from Specified Foreign Company

Section 115BBD of the IT Act provides for concessional rate of tax of 15% on dividend income received by an Indian Company from a specified foreign company, in which it holds at least 26% or more equity holding.

In order to provide parity in the tax treatment w.r.t dividends received by Indian companies from specified foreign companies' vis a vis dividend received from domestic companies, it is proposed to amend section 115BBD of the IT Act to provide that the provisions of this section shall not apply to any assessment year beginning on or after the 1st April, 2023.

The above amendment shall apply from FY 2022-23 onwards.

Revision of Transfer Pricing Order

The Government proposes to amend section 263 of the IT Act to clarify who has the powers under Section 263 to revise the TPO's computation of arm's length price. The proposal provides that the PCIT or the CCIT or the Principal Commissioner or Commissioner who is assigned transfer pricing jurisdiction may request and examine the record of any proceeding under this Act, and if they believe any order issued by the TPO working under their jurisdiction is erroneous in the interests of Revenue, they may pass an order directing revision of such order of TPO.



Administrative Amendments

(Assessment / Appeals, Settlement Commission, Due Dates, etc.)

Updated Return

Insertion of sub-section (8A) is proposed to Section 139 of the Act, to provide Taxpayers two years from the relevant Assessment Year, to file, an "updated return". The "updated return" would trigger a 25% additional tax payment under proposed Section 140B, if the updated return is filed within 12 months of the end of the relevant Assessment Year, or a 50% additional tax payment if the same is filed after 12 months, but before 24 months of the end of the relevant Assessment Year. [w.e.f 1st April 2022].

The Assessee has additional time to rectify his errors or omissions or mistakes in his returns through an updated return but with a caveat of additional tax liability. This is a welcome move as it could help avoid repetitive litigation and in turn also help in voluntary compliance significantly.

Litigation Management

To reduce repetitive litigation between taxpayers and the Revenue authorities, the Government proposes Section to introduce a scheme under section 158AB which will allow deferment by the Revenue, of appeals to Tribunals or High Courts, in cases where an identical matter or question of law stands pending before a Jurisdictional High Court or Supreme Court. [effective from 1st April 2022].

Extension of Dates

Dates for issuance of directions pertinent to Scheme of Faceless determination of arms' length price (Section 92CA), Faceless Dispute Resolution Panel (Section 144C), Faceless Appeal to Appellate Tribunal (Section 253) and Scheme of Faceless procedure of Appellate Tribunal (Section 255) are extended to 31-03-2024.

Penalties

The Government proposes to amend penalty provisions under the Act i.e., Section 271AAB, i.e. "penalty where search has been initiated", Section 271AAC, i.e. "penalty in respect of undisclosed income" and Section 271AAD, i.e. "penalty for false entry in books of account", enabling the Commissioner (Appeals) to levy penalty under the said sections.

Further, the amendment aligns the above provisions of the Act with Section 270A, i.e. "Penalty for underreporting and misreporting of income", Section 271, i.e. " Failure to furnish returns, comply with notices, concealment of income, etc", Section 271A, i.e. "Failure to keep, maintain or retain books of account, documents, etc. Section 71G, i.e. "Penalty for failure to furnish information or document under section 92D" and Section 271J, i.e. "Penalty for furnishing incorrect information in reports or certificates."

The Government proposes to increase the penalty for failure to sign statements, furnish information, returns or statements, allow inspections etc. prescribed under Section 272A of the Act from INR 100 to INR 500.

Genuine Hardship

Section 119 of the Act empowers the CBDT to take steps for the smooth functioning of the IT Act and issue directions in that regard. Section 234F, i.e. "Fee for default in furnishing return of income", provides for levy of late fees in cases of default. Towards this, the Government proposes to extend the scope of Section 119 to Section 234F to protect instances of genuine hardships faced by Assessee.



Assessment & Reassessment

In view of rationalising provisions relating to assessment and reassessment under the Act, the Government proposes amendments to the Act as follows:

- To remove the requirement of the AO to obtain prior approval before issuing a notice under Section 148 of the Act if the AO has issued an order under 148A(d) of the Act giving a reason that income is escaping assessment.

Explanation 2 to section 148 of the Act (as inserted by Finance Act, 2021) provides that if income escapes assessment, reassessment proceedings for three assessment years are to be launched. The reference to three assessment years is proposed to be removed, the effect of which will be that in circumstances where reassessment orders are to be issued in response to search proceedings under section 132 of the Act, reassessment will not be limited to only three years [effective from April 1st, 2022].

- To align the scheme of search assessments with the Act, the Government proposes to amend sub-section (8) of section 132 of the Act to make search and seizure provisions applicable to assessment or reassessment for retaining books of account for a period not exceeding 30 days from date of order of assessment.
- The Government further proposes to amend clause (i) of sub-section (1) and sub-section (4) of section 132B to provide those provisions on "application of seized or requisitioned assets" shall also apply to assessment/reassessment or re-computation.
- Proposal is to amend section 153 of the IT Act by way of inserting a new clause to exclude the period commencing from the date on which a search is initiated under section 132, or a requisition is made under section 132A for purpose of assessment/reassessment and re-computation.



Charitable Trusts

The Government proposes to streamline the taxability provisions of Charitable Trusts and Institutions under section 10(23C) and Section 12AA/12AB of the IT Act.

It is proposed to prescribe that where the total income of the trust or institution, without application of Section 10(23C) or Section 11 and 12 of the Act, exceeds the maximum amount which is not chargeable to tax, such trust or institution shall keep and maintain books and accounts.

The proposed taxability/compliance regime proposes to provide that if a trust or institution has passed on any unreasonable benefits to a trustee or a specified person then the AO shall levy by way of penalty an amount of 100% for a first-time violation or a penalty of 200% for a subsequent violation, of the aggregate amount of benefit passed on to the trustee or specified person.

Under the existing provisions, registration could be cancelled in cases if the income of the trust was applied for objects other than for which it is established or for an activity of the trust is not genuine; the Government proposes to prescribe

that in terms of cancellation of registration, the PCIT or CIT shall cancel the registration of a trust or deny the registration of trust if the PCIT or CIT is of the opinion that:

- Non-maintenance of separate books of an incidental business or undertaking activities not being in line with the objects of the Trust
- Income of the trust is applied for a private religious purpose that does not derive any benefit to the public.
- Income of trust is applied for the benefit of a particular community or caste.

The Government has proposed to clarify that the donations received for renovation and repair of temples, mosques, gurudwaras, churches etc., may form part of corpus, subject to fulfilment of conditions as prescribed for the specific trust or institution.

The Government has further proposed to clarify that the 85% of income that is required to be applied for the specified purposes will be allowed as deduction in the year in which it is expended, irrespective of the year in which the liability was accrued.

Other Key Amendments

Goodwill

From AY 2021-22, goodwill was not considered as depreciable asset and hence depreciation was not allowed on goodwill. In case goodwill was purchased by an assessee, the purchase price was to be considered as cost of acquisition for purpose of computing capital gains, where depreciation was claimed prior to AY 2021-22.

In continuation to the above, it is now clarified that reduction of goodwill from block of asset will be deemed as transfer.

The above clarification will apply retrospectively from FY 2020-21.

Refund of Withholding Tax

In case of "net of tax" contracts, where



withholding tax is borne by the payer, it has been proposed to allow refund of withholding tax by making an application to the Assessing Officer within 30 days of deposit of taxes. The AO should dispose of such applications within six months. Orders passed by the AO are appealable before the CIT(A).

Allowability of Carryforward and Set-off of Losses on Strategic Disinvestment of Public Sector Companies

In order to facilitate the strategic disinvestment of public sector companies by allowing the carry-forward and set-off of brought forward losses, it is proposed that the provisions of section 79 of the IT Act (which provides for holding at least 51% of voting power of the company), shall not apply to an 'erstwhile public sector company', subject to the condition that the ultimate holding company of such erstwhile public sector company, immediately after the completion of the strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least fifty one per cent of the voting power of the erstwhile public sector company, in aggregate.

The above amendment shall apply from FY 21-22 onwards.

Cash Credits Under Section 68 of the IT Act

In relation to credit of loan or borrowings in the books, certain judicial pronouncements have held that only identity and creditworthiness of creditor and genuineness of transactions for explaining the credit in the books of account, is sufficient, and the onus does not extend to explaining the source of funds in the hands of the creditor.

It is proposed to amend the provisions of section 68 of the IT Act to provide that the nature and source of any sum, whether in form of loan or borrowing, or any other liability, credited in the books of an assessee, shall be treated as explained, only if the source of funds is also

explained in the hands of the creditor or entry provider.

The above amendment shall not apply if the creditor is a well-regulated entity, i.e., a Venture Capital Fund, Venture Capital Company registered with SEBI.

The above amendment shall apply from FY 2022-23 onwards.

Restriction on Set-off of Losses in Search and Survey Cases

It is proposed to insert a new Section 79A to the IT Act to provide that where an income of a taxpayer includes any undisclosed income consequent to search or survey, then no set-off of any loss or unabsorbed depreciation shall be allowed to the taxpayer against such undisclosed income.

The above amendment shall take effect from FY 2021-22 onwards.

Amendment Related to Successor Entity Subsequent to Business Reorganization

In the event of a business reorganization, it is proposed to insert a new sub-section (2A) to section 170 of the IT Act to provide that the assessment or other proceedings pending or completed on the predecessor shall be deemed to have been made on the successor. Thus, such proceedings shall not be considered as illegal on the predecessor ceasing to exist in the mid of any valid and legal proceeding.

It is also proposed to insert a new Section 170A to the IT Act to provide that those entities undertaking business reorganization can file modified returns between the date of 'effective date' of the order and the date of issuance of the final order.

It is further proposed to insert a new section 156A in the IT Act to provide a mechanism to give effect



to the orders of Competent Authority and modify/reduce the demands from the outstanding demand register.

The above amendment shall take effect from 1st April 2022 onwards.

Liability of Directors in Private Company

It is proposed to amend the title of Section 179 of

the IT Act from “Liability of directors of private company in liquidation” to “Liability of directors of private company” to clarify that the liability of directors of a private company is not conditional upon the company being in liquidation.

In order to avoid further litigation, it is also proposed to insert the word ‘fees’ in the scope of the expression “tax due”.

The above amendment shall take effect from 1st April 2022 onwards.





INDIRECT TAX PROPOSALS

Goods & Service Tax (GST)

- Clause (ba) to Section 16(2) of the CGST Act has been inserted to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer under Section 38.
- Time limit for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year has been extended up to 30th November of the following financial year.
- Section 29(2) has been amended to provide that the registration of a person is liable for cancellation, where - (i) a person paying tax under the composition scheme (Section 10) has not furnished the return for a financial year beyond 3 months from the due date of furnishing of the said return; (ii) a person, other than those paying tax under the composition scheme, has not furnished returns for such continuous tax period as may be prescribed.
- Section 34(2) has been amended to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year up to 30th November of the following financial year.
- Section 37 has been amended to extend the date up to 30th November of the next financial year for rectification of errors of details furnished in the statement of outward supplies.
- Section 38 of the CGST Act is being substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.
- Section 39 of the CGST Act has been amended to (i) provide that the non-resident taxable person shall furnish the return for a month by 30th of following month; (ii) provide an option to the persons furnishing return under proviso to Section 39(1), to pay either the self-assessed tax or an amount that may be prescribed; (iii) provide for an extended time up to 30th November of the following financial year, for rectification of errors in the return furnished under Section 39; (iv) provide for furnishing of details of outward supplies of a tax period under Section 37(1) as a condition for furnishing the return under section 39 for the said tax period.
- Section 41 of the CGST Act has been substituted so as to do away with the concept of "claim" of eligible input tax credit on a "provisional" basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed.
- Section 47 is being amended to provide for levy of late fee for delayed filing of TCS return applicable under Section 52 of the Act.

- Section 49 is being amended to place restrictions on the amount of credit that can be utilized from the electronic credit ledger. Further, the amendment also allows for the transfer of the amount available in the Electronic Cash Ledger under the Act of a registered person to a distinct person's Electronic Cash Ledger under the CGST Act or the IGST Act.
- Section 50(3) has been substituted, with retrospective effect, to levy interest @18% on input tax credit wrongly availed and utilized.
- Section 54 of the CGST Act has been amended to: (i) explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed; (ii) provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under Section 55 as 2 years from the last day of the quarter in which the said supply was received; (iii) extend the scope of withholding of or recovery from refunds in respect of all types of refund; (iv) provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit by way of insertion of a new sub-clause (ba) in clause (2) of Explanation thereto.
- Services by way of grant of alcohol liquor license against consideration has been declared as an activity or a transaction to be treated as neither supply of goods nor supply of service, with retrospective effect from 1st July 2017.

Customs

The Customs Act, 1962

- Section 3 is amended to specifically include the officers of DRI, Audit and Preventive formation in the class of Officers. This amendment has been made to remove any ambiguity as regards the class of officers of Customs.
- Section 5(5) is being inserted to ensure that wherever necessary, for the proper management of work, two or more officers of customs can concurrently exercise powers and functions (for example in the case of faceless assessment).
- Section 14 is being amended to include provisions for rules enabling the Board to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods. This amendment is a measure to address the issue of undervaluation in imports.
- Section 28J of the Customs Act of 1962 is being amended to make advance rulings effective for three years from the date of issue.
- Unauthorized disclosure of import/export data, unless provided under the law, will be treated as an offence under the new Section 135AA

The Customs Tariff Act, 1975

- The customs duty rate structure on capital goods and project imports applicable to various sectors has been comprehensively reviewed and exemption on capital goods/project imports will be phased out in a gradual manner with few exceptions. Accordingly, the duty exemption available to certain goods is withdrawn from the prescribed date by an

amendment to Notification No.50/2017-Customs dated 30.6.2017.

- Certain customs duty exemption notifications have been reviewed and modified. In some cases, a sunset date has been prescribed as per Section 25(4A) of the Customs Act.
- Basic customs duty rates have been prescribed in respect of Phased Manufacturing Program (PMP) with respect to (a) wrist wearable devices (smart watches) and its parts, sub-parts and sub assembly; (b) hearable devices and its parts, sub-parts and sub assembly; and (c) smart meters and its parts, sub-parts and sub assembly. The duty rates will increase gradually during the period 2022-23 to 2025-26.
- A scheme for duty-free imports for the purpose of use in goods meant for export, based on end-use monitoring is being introduced for bonafide exporters subject to the requirement of exporting value added products manufactured using inputs imported under these exemptions, within a period of six months. Importers shall be required to follow the procedure under the Import of Goods at Concessional Rate (IGCR) Rules, 2017. It will benefit handicraft products, textile or leather garments, leather or synthetic footwear or other leather products meant for exports.
- Social Welfare Surcharge levied vide Notification No.11/2018-Customs dated 02.02.2018 has been withdrawn on several products.
- Certain clarificatory amendments have been made to entry no. 525, 526A and 531A of

Notification No. 50/2017 dated 30.06.2017, in order to bring clarity about the scope of exemptions in relation to imports of completely knocked down/semi knocked down forms (CKD/SKD) of electric vehicles (EV) (including commercial, passenger and two-wheeled electric vehicles). These amendments clarify that for an EV kit to be eligible for the duty benefits available to a CKD form of an EV, each individual component in the kit need not be in a disassembled form. Further, it has been clarified that even if some components are missing in the EV kit, the benefit of concessional rate of duty available to CKD/SKD kits would still be available provided that the kit as presented has the essential character of an EV.

The Customs (Import of goods at concessional rate of duty) Rules, 2017

- To facilitate trade, the IGCR Rules have been amended to introduce automation of the entire process; requirement of submitting all the necessary details electronically through a common portal; standardizing and notifying the various forms in which details are to be submitted electronically; leveraging the advantage of such submissions electronically, the need for any transaction-based permissions and intimations are all being done away with; for effective monitoring of the use of goods for the intended purposes, a monthly statement is being proposed which is to be submitted by the importer on the Common Portal; and an option for voluntary payment of the necessary duties and interest, through the Common Portal.

Excise

To promote blending of petrol with ethanol/methanol and blending of diesel with biodiesel, an additional Basic Excise Duty of Rs.2 per litre on

petrol and diesel, intended to be sold to retail consumers without blending, would be levied with effect from the 1st of October 2022.



Changes in Basic Customs Duty

Increase (+)

Commodity	From	To
Umbrellas	10%	20%
X-Ray grid, multi-leaf collimator/ Iris and static user interface used in the manufacture of X-ray items	5%	10%
X-Ray machines	7.5%	10%
Loudspeaker whether or not mounted	15%	20%
Headphones and earphones whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers	15%	20%
Smart meters (w.e.f. 01.04.2022)	15%	20%
Printed Circuit Board Assembly of smart meters (w.e.f. 01.04.2022)	10%	20%
Parts of electronic toys for the manufacture of electronic toys	15%	25%
Solar cells (other than those exclusively used with ITA-1 items)	20%	25%
Note: Effective BCD rate on these goods would continue to be 'Nil' till 31.03.2022.		
Solar modules (other than those exclusively used with ITA-1 items)	20%	40%
Note: Effective BCD rate on these goods would continue to be 'Nil' till 31.03.2022.		

Decrease (-)

Commodity	From	To
Fuel oil	5%	2.5%
Cut and polished diamonds and natural gemstones	7.5%	5%
Camera lens for use in the manufacture of camera module for cellular mobile phone	10%/15%	2.5%
Specified parts for use in manufacturing transformers of chargers/ adapters	10%/15%	5%
Copper/ aluminum-based copper clad laminate for use in manufacture of PCB/ MCPCB	5%/7.5%	NIL
S. G. Ingot castings used in the manufacturing of plastic processing machinery	10%	7.5%
Ball screw and linear motion guide used in the manufacturing of plastic processing machinery	7.5%	5%
Bushing (made up of platinum and rhodium alloy, imported in exchange for worn-out bushing exported for refurbishment)	10%	7.5%
Coffee roasting, brewing or vending machinery for use in the manufacturing or processing of coffee	10%	7.5%
Surgical needles imported for manufacture of surgical sutures	Health Cess @5%	Health Cess Nil



REGULATORY PROPOSALS

Ease of Doing Business

EODB 2.0:

For the Amrit Kaal, the next phase of Ease of Doing Business EODB 2.0 and Ease of Living, is proposed to be launched on the idea of 'trust-based governance.

Accelerated Registration and Accelerated Corporate Exit:

- Establishment of several IT-based systems for accelerated registration of new companies.
- Proposal to establish Centre for Processing Accelerated Corporate Exit (C-PACE) with process re-engineering to accelerate voluntary liquidation of companies.

Insolvency and Bankruptcy Code:

- Budget introduces cross-border insolvency.
- Necessary amendments proposed in the Code to enhance the efficacy of the resolution process & to facilitate cross border insolvency resolution.

IMPACT

EODB 2.0 will greatly assist in improving productive efficiency of capital and human resources.

Accelerated Registration is a booster for ease of doing business to corporates and C-PACE is a great initiative and indeed a great news for all the corporates, professionals and regulatory bodies which will facilitate and help in speeding up of voluntary winding up of companies. With this, the exit timelines are expected to shrink from 2 years to less than 6 months and this step greatly aligns with the need of the hour.

In today's world of globalisation, adoption of cross-border insolvency framework based on UNCITRAL model law is a welcome development.

Special Economic Zone

- Replacement of the Special Economic Zones Act with a new Legislation to enable the states to become partners in 'Development of Enterprise and Service Hubs'.
- Reforms in customs administration of SEZs are proposed to be undertaken.
- Reforms will be implemented by 30th September 2022.
- SEZs will be fully IT driven and would function on the Customs National Portal.

IMPACT

The introduction of new legislation will cover all large existing and new industrial enclaves to optimally utilise available infrastructure and enhance competitiveness of exports. The reforms proposed will ease doing business by SEZ units considerably.

GIFT-IFSC

- World-class foreign universities and institutions allowed in the GIFT City.
- Courses in Financial Management, FinTech, Science, Technology, Engineering and Mathematics free from domestic regulations are proposed to be offered.
- Proposal to set up an International Arbitration Centre in the GIFT City.
- Services for global capital for sustainable & climate finance in the country will be facilitated in the GIFT City.

IMPACT

Measures initiated in the Budget towards GIFT IFSC would facilitate availability of high-end human resources for financial services and technology and facilitate timely settlement of disputes under international jurisprudence.



SECTOR IMPACTS

REAL ESTATE

- Rs. 48,000 are allocated towards the Affordable Housing Scheme— Pradhan Mantri Awas Yojana (PMAY). Would enable the completion of 80 lakh houses for the identified eligible beneficiaries under the scheme.
- The central and the state governments to work together to reduce the time required for land and construction related approvals.
- States' borrowing enhanced to One Lakh Crore. These funds are to be utilized for reforms relating to Building Bye-Laws and Transfer of Development Rights. It is 50 year interest free loan facility from the Centre to the States.
- Data Centre and Energy Storage System to be given Infrastructure Status and the same will provide easy financing to the real estate sector. This is a progressive step enabling India to a Global Data Hub.
- Five existing academic institutions would be designated as Centres for Excellence. Each of them will receive an endowment of Rs 250 Crore each.
- Land Records Digitalization Programme and Integrated Land Information Management System across the Country which will facilitate transparent and litigation free land transfers.
- Adoption of National Generic Document Registration System enabling a uniform process of "Anywhere Registration Of Deeds And Documents" in the Country. It further encourages the adoption of Unique Land Parcel Identification Number.

RENEWABLE ENERGY

- Provisioning of decentralized renewable energy to border villages with sparse population, limited connectivity and infrastructure under the vibrant villages programme.
- Scope of 'Parivesh' portal for Green Clearances to be expanded, to provide information to the applicants. It will enable application for all four approvals through a single form and tracking of the process through Centralized Processing Centre-Green (CPC-Green).
- Sovereign Green Bonds will be issued for mobilizing resources for green infrastructure. The proceeds will be deployed in public sector projects which help in reducing the carbon intensity of the economy.

INFRASTRUCTURE

- Infrastructure is the biggest Growth/Job Driver in the Budget. The Total allocation for Capex is 39.45 lakh Crores.
- Massive modernisation of Indian Railways: This will spur Infra growth by way of PPP/ EPC Contracts for Rail Development.
- Masterplan for Expressways: This will pave way for construction of large Road Projects across the country through Expressway by way of PPP / EPC Model.
- Allocation of Rs 25,000 Crores for Transportation and Logistics which again spur growth on construction of Roads/Bridges/Airports/ports etc., on PPP Model.
- Allocation of Rs 25,000 Crores for Highway Expansion through PPP/EPC Model.
- Construction of village Infrastructure which again leads to construction of Roads/Bridges with the support / partnership with State Govt.
- Construction of 8 million Homes by allocating 48000 Crores which again spur growth in the construction sector.
- Allocation of Rs 1,500 crores to Northeast which will again be spent for construction of Infra Projects.
- Allocation of Rs 1,400 Crores for Hydro / Solar Power Projects which will again boost Infrastructure sector by way of construction through PPP/EPC Model.
- Replacing of existing SEZ Rules by introducing new legislation which will increase IT/ITEs activities by construction of IT/ITEs Towers and other construction activities.
- Issuance of Green Sovereign Bonds: The proceeds of these Bonds will be utilised for implementing Green Infra Projects. Projects are implemented through EPC Model.
- Amendment of existing GOI's Procurement Policy to be amended keeping in line with international norms – this will facilitate easy and quick selection of quality Vendors when the Projects are implemented through EPC Model.
- Proposal of establishing International Arbitration Centre in India, which will facilitate easy resolving of Dispute among Parties, especially for large Consortiums.

IMPACT

- Impetus to oil & gas industry through higher capex allocation
- Boost in consumption
- Rural economy to get empowered
- Mining & metals industry will be benefitted because of increase capital outlays.
- Boost in consumption to help retail, e-commerce & manufacturing industry

AUTOMOTIVE

- New Battery Swapping Policy announced – will encourage companies to increase their investment in electric vehicles.
- Focus on Electric Vehicles for public transport – will reduce operating costs & also reduce emissions, with a focus on clean technology.
- Opening up of defence R&D for private players – will encourage new business models.
- Commercial vehicle sector will be encouraged with planned expansion of National Highways: Rs 20k crs investment & 25k km expansion proposed.
- Announcement of MSP payment of Rs 2.73 lakh crs along with other benefits to aid the farming sector – this could eventually help demand for automobiles in rural markets grow.

IMPACT

- Huge target for national highways expansion is a big positive
- New Policy on EV Battery swapping to boost the renewable ecosystem in a big way
- Tax incentives for startups will help these growth drivers
- Local parts manufacturing companies will get encouragement
- Focus on rural economy will increase consumer demand
- Support for MSMEs will make them more competitive
- Budget unlikely to trigger revival of consumption immediately

HEALTH

- A National Tele Mental Health Programme has been launched. Under this Programme, a network of twenty-three mental health centres would be established. Additionally, Nimhans will act as a nodal centre and IIIT Bangalore would provide the requisite technological support.
- National Digital Health Ecosystem, a digital registry for the health providers and facilities, will be introduced. It aims to improve the accessibility of health facilities in the country. Under this initiative, a unique health identity would be provided.

IMPACT

- No significant increase in allocation
- Recognition of mental health programmes
- Support to startups & private players in this segment
- Focus on digitised health care service

MANUFACTURING

- To enable manufacturing companies to become an integral part of global supply chains, possess core competence and cutting-edge technology and create manufacturing global champions for an 'Atmanirbhar Bharat', the Government announced Production Linked Incentive (PLI) schemes for 13 key sectors. Towards that aim, the government has earmarked nearly Rs.1.97 lakh crores, which will be spent over five years starting this financial year.
- An additional allocation of Rs.19,500 crore has been made to the PLI scheme for manufacture of high efficiency modules required by the renewable energy sector. Customs duty on solar cells/ modules has been increased to facilitate local manufacturing.
- Customs duty concessions/exemptions granted to various capital goods for sectors like power, fertiliser, textiles, leather, footwear, and food processing has been withdrawn to provide growth opportunity to the domestic capital goods sector. Project Import concessions is proposed to be phased out to provide the local producers a level playing field in areas like coal mining projects, power generation, transmission or distribution projects, railway, and metro projects.
- Customs duty exemption on over 350 items including certain agricultural produce, chemicals, fabrics, medical devices, drugs, and medicines for which sufficient domestic capacity exists is to be phased out. Customs duty exemption proposed on items such as embellishment, trimming, fasteners, buttons, zipper, lining material, specified leather, furniture fittings and packaging boxes that are needed by bonafide exporters of handicrafts, textiles and leather garments, leather footwear and other goods.
- Concessional duties are provided on raw material that go into manufacturing of intermediate products. Phased manufacturing program is introduced with respect to wrist wearable devices (smart watches), hearable devices and smart meters.
- The Special Economic Zones Act will be replaced with a new legislation that will enable the states to become partners in 'Development of Enterprise and Service Hubs'.
- It is also proposed to undertake reforms in customs administration of SEZs whereby it will fully IT driven and function on the Customs National Portal with a focus on higher facilitation and with only risk-based checks. This will provide ease of doing business by SEZ units considerably. This reform shall be implemented by 30th September 2022.
- The Budget has also extended the date of manufacturing till 31st March 2024 for new manufacturing companies opting for concessional rate of corporate tax @15%.
- Several IT-based systems have been established for accelerated registration of new companies. The Centre for Processing Accelerated Corporate Exit (C-PACE) with process re-engineering, will be established to facilitate and speed up the voluntary winding-up of these companies from the currently required 2 years to less than 6 months.

IMPACT

- Customs exemptions on implements and tools as well as duty reduction on mobile parts, etc and capital goods to boost domestic manufacturing.
- Extension of date of concessional Income tax regime would help attract new investment.
- Design led manufacturing in the 5G space may lead to affordable broadband connections.

STARTUPS

- Start-ups for agricultural and rural enterprises, which are relevant for the farm produce value chain, will now be financed by a fund that would be raised under the co-investment model. NABARD would act as a facilitator in the process. The activities of such start-ups would include the provision of support for FPOs and Information Technology, rental of machinery to the farmers, etc.
- The 2022 Budget highlighted the role played by the start-ups in the growth of the economy. Earlier, tax incentives for three consecutive years out of ten years from incorporation had been provided to the eligible start-ups, which are established before 31st March 2022. The Union Budget 2022 extended the period of incorporation to 31st March 2023 in light of COVID-19.
- To provide a boost to the start-ups in the country, a cap of fifteen per cent has been placed on the surcharge on long term capital gains arising on transfer of any type of assets.
- The 2022 Union Budget also provided that the start-ups would be promoted to facilitate 'Drone Shakti'. The requisite courses for skill development will be started in select ITIs in all the states.
- To foster growth in the Defence sector, Defence R&D would be opened up for start-ups as well. They will be encouraged to collaborate with DRDO and other organizations through the SPV model, and take up the design and development of military platforms and equipment. To cater to the wide-ranging technology and certification requirements, an independent nodal umbrella body will be established.
- For newly incorporated manufacturing companies, a tax rate of fifteen per cent would be available for an additional year, till March 2024.

IMPACT

- Will help MSMEs to recover quickly from pandemic
- Digital payment ecosystem given financial support
- Sunrise sectors like EVs recognised
- Lowering of LTCG tax will encourage M&A transactions
- Hospitality sector to get help from extension of ECGL service
- Good focus on infrastructure & logistics will help creation of more players
- More employment opportunities likely in start up sectors
- New SEZ Policy will also help this sector significantly - especially in relocating to outside metro cities
- Entrepreneurship culture will get catalysed further.

TECHNOLOGY

Digital Currency

- To launch digital rupee using block chain technology starting 2022-23
- To launch scheme for taxation of virtual digital assets (VDAs)
- Losses from sale of VDAs cannot be offset against other income
- Income from VDAs to be taxed at 30%
- 75 digital banking units to be set up across 75 districts.

Infrastructure

- 5G spectrum auctions to be conducted in 2022
- Scheme for design-led manufacturing for 5G will be part of production-linked scheme (PLI)
- To award contracts to lay optical fibre in rural areas, completion in 2025
- To allocate additional 195 billion rupees for PLI towards solar equipment manufacturing.

Agriculture

- Using Kisan drones for crop assessment and spraying of pesticides. It will be promoted for crop assessment, digitization of land records, spraying of insecticides and nutrients.

Health

- Open platform for National Digital Health ecosystem to be rolled out. It will consist of digital registries of health providers & health facilities, unique health identity, consent framework & universal access to health facilities.

Finance

- Green bonds to be issued for upping green infrastructure.

Environment

- Introduction of battery swapping policy with inter-operability standards for Electric Vehicles.

Passport

- E-passport with embedded chip will be rolled out this year. The Ministry of External Affairs on Jan 7 signed an agreement with Tata Consultancy Services Limited for the second phase of the Passport Seva Programme (PSP), one of the several Mission Mode Projects (MMPs) of the GOI. The latest agreement will facilitate the next phase of the PSP termed PSP-V2.0.

The new programme is expected to have technology upgrade including the use of latest biometric technology, Artificial Intelligence, Advance Data Analytics, Chat- Bot, Auto-response, Natural Language Processing, Cloud Enablement. Under this, new and renewed passports will be fitted with a microchip that will hold all biometric information regarding the applicants.

IMPACT

- Big boost to FinTech.
- Digital banking to go rural
- IFSC to become more global
- Good recognition to MSMEs & Startups
- Crypto currency finally gets recognition
- 5G rollout likely to happen this year.
- Opportunities for drone industry
- Digital education gets a boost
- Animation & gaming offer good potential

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